

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

UNIVERSAL INSTRUMENTS CORPORATION,

Plaintiff,

-vs-

MICRO SYSTEMS ENGINEERING, INC., and
MISSOURI TOOLING & AUTOMATION,

Defendants.

DECLARATION
OF ANDREW C. ROSE

Civil Action No.: 3:13-cv-831
(GLS/DEP)

ANDREW C. ROSE, an attorney duly admitted to practice in this state and before this court, declares as follows:

1. I am a member of the Bar of the State of New York, having been admitted to the Bar in 1985, and have also been a member of the Bar of this Court since 1988.

2. I am a member of the firm of Nixon Peabody, LLP where I have been resident in its Albany, New York office since 1990. Before that, I worked for its predecessor firm, Nixon, Hargrave, Devans & Doyle, in its Rochester, New York office for six years. I am currently the managing partner of the firm's Albany office.

3. Nixon Peabody is a national firm with 16 attorneys resident in its Albany office, and another 100 resident in our other Upstate New York offices (Rochester and Buffalo). Of these attorneys, 21 (11 partners) are part of the firm's commercial litigation group; however, our Upstate New York practice does not focus on intellectual property litigation.

4. I have actively practiced law and have been admitted to the Bar of both the United States District Courts in the Northern and Western Districts of New York for more than 30 years. As a result of my practice, my involvement in the local bar and in some activities in support of this district, as well as my role as managing partner in my office, I have had occasion to interact with and learn about many of the lawyers and firms within this federal district.

5. On March 29, 2017, I appeared in this case as local counsel to defendants Micro Systems Engineering, Inc. (“MSEI”) and Missouri Tooling & Automation (“MTA”), and I remain in that role. During my representation of defendants, I reviewed and provided input on all motion and pretrial submissions to the Court, I consulted with defendants’ lead counsel on matters of strategy and local practice before and during the trial, and communicated regularly with plaintiff’s counsel on the many discovery and pretrial issues we confronted in the several months leading up to the trial. I regularly advised trial counsel for both defendants about local practice and local rules and customs.

6. As a result of my role and experience as described above, I am familiar with the issues and tasks that were presented by this case, my firm’s work on the case, my firm’s areas of practice and resources and, more generally, the composition of our Upstate New York litigation and trial bar conversant in this type of complex litigation.

7. As this Court knows, this case has been pending since July 2013. By the time that I and trial counsel for the two defendants (Sullivan & Cromwell LLP (for MSEI) and Kaplan Rice LLP (for MTA)), first appeared in this case in March 2017, the case had progressed through extensive and prolonged fact and expert discovery proceedings, as well as repeated discovery motion practice and ultimately, this court’s February 24, 2017 summary judgment decision. As this court also knows, on March 23, 2017 the case was given a trial-ready date of July 31, 2017.

8. Shortly after my firm was retained, I reviewed various items on the docket to ascertain the nature of the claims, the history and status of the 4-year course of this case, and to assess the tasks required to ready the case for trial, which was then scheduled for four months away. That review revealed that the case was much more than a garden variety breach of commercial contract dispute. Instead, the claims remaining in the wake of this court’s summary

judgment decision required an understanding of substantive copyright, licensing and trade secret concepts arising in the context of competing interpretations of, and ownership rights in, source and server station software code used in an automation platform (the “Test Handling System”) for the manufacture of sophisticated components used in medical devices like heart pacemakers and defibrillators.

9. I was also able to ascertain that during the course of discovery, the parties had (1) produced over 1 million pages of records; (2) conducted no fewer than 41 depositions of 29 witnesses; and (3) generated several expert reports, which had estimated plaintiff’s potential damages at as much as tens of millions of dollars.

10. Based on my review, I concluded that, despite my prior experience in complex commercial litigation involving intellectual property issues and the experience of some of my Nixon Peabody colleagues in such litigation often in other metropolitan offices of the firm (Boston, Washington, D.C., Los Angeles, San Francisco), we were not able to independently marshal the necessary resources and expertise to review and digest the cumbersome volume of information generated prior to our appearance and to prepare and try this high-stakes case in the relatively short time period available before commencement of the trial.

11. My assessment proved to be accurate when, during the course of the four months before trial and during trial, it was necessary for Sullivan & Cromwell professionals to devote a total of more than 5,000 hours to handle these difficult and complicated tasks, and thereafter present the organized and compelling case, through its nationally-recognized lead counsel David Tulchin, that resulted in a total victory for the defendants at trial.

12. There are many fine lawyers, some accomplished trial lawyers, in this district and in Upstate New York law firms, a fact of which this Court is acutely aware since many of them

appear before the Court on a regular basis. Over the years, I have interacted with many of these lawyers and firms and have great respect for them. Nonetheless, given the nature of this case, and the demands and timing constraints it presented, I expect that it would have been uniquely challenging for them to handle.

13. While I cannot speak to the particular resources such firms might have been able to mobilize quickly in order to do justice to the defense of this case, I have a sound understanding that few firms, if any, in this District or the Western District, have the depth of knowledge in the complex legal and technical issues that this case presented, combined with the proven trial experience and supporting bench strength required to achieve the exceptional result obtained through the tireless, nearly all-consuming effort expended by Sullivan & Cromwell and Kaplan Rice throughout the four or five months of their involvement through the end of trial. One indication of this is the fact that, to my knowledge, only three or four of the Albany-based attorneys listed on this district's approved mediator list have any copyright or intellectual property litigation experience, and none of their firms have supporting local personnel comparable to that which the defendants' out-of-district counsel were able to devote to this case.

14. Accordingly, I believe that the net result achieved by defendants' out-of-district counsel here was substantially, indeed exceedingly, better than what might have been possible given the limitations of other firms in this local market.

15. As the managing partner of my office for more than 14 years, I have developed both first-hand and some anecdotal knowledge of the hourly rates currently charged by other firms in this judicial district. Admittedly, because the size and nature of our local firms are as diverse as the types of matters they handle, it is difficult to derive a generalized "going rate," particularly for a case as complicated and important to the clients as this. However, it is fair to

say that the growing business diversification of our local economic base and the technology boom and globalization taking place in this region over the last 5-10 years has engendered an influx of firms (some among the AmLaw 100) and practices whose rates are higher than the “insurance-defense” rates that historically were a local staple.

16. I believe that the rates we charged our clients in this matter, and which the clients paid promptly and in full, are comparable to or below what some such other firms charge their clients. And, because our role was to support the deeper and necessary resources dedicated by our co-counsel, we staffed that role very leanly, utilizing only me and one paralegal throughout the duration of our representation.

17. In the period between March 27, 2017 and the end of August 2017, my hourly rate for the work done on this matter was \$585 and I billed 325.5 hours in this case. Our paralegal, Kevin Dayer, billed 2.1 hours at an hourly rate of \$225. These hourly rates are in-line with the rates other clients customarily paid for our time during this time period. In total, the fees we charged between March 2017 and August 2017 were \$190,767.00. As stated above, these fees were promptly paid in full.

18. In keeping with this Court’s rulings, where my May 2, 2017 and June 27, 2017 time entries reflect travel time and other billable tasks, I have reduced the number of hours logged on those dates by 50%. Accordingly, the total for which my firm seeks reimbursement on this application is \$185,707.

19. True and correct copies of our invoices for this case are attached hereto as Exhibit A. These invoices are based on contemporaneous records of the work that was done.

I declare under penalty that the foregoing is true and correct.

Dated: February 23, 2018

/s/ *Andrew C. Rose*

Andrew C. Rose

EXHIBIT A



NIXON PEABODY LLP
ATTORNEYS AT LAW

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Micro System Engineering, Inc.
6024 Jean Road
Lake Oswego, OR 97035

April 30, 2017
Invoice No. 9866445
Account: 078707
Terms: Due Upon Receipt

FOR PROFESSIONAL SERVICES RENDERED through March 31, 2017, including:

MATTER NO.: 000002

**UNIVERSAL INSTRUMENTS V MICRO SYSTEM
ENGINEERING, INC.**

For Professional Fees:

<u>Date</u>	<u>Timekeeper</u>	<u>Hours</u>	<u>Description of Services</u>
03/27/17	A. Rose	0.50	Telephone conference with and e-mails to C. Greene on pro hac applications. Gather forms and convey to C. Greene.
03/28/17	A. Rose	1.00	E-mails to D. Tulchin on appearance for both defendants. Telephone conference with and e-mail to H. Bjerk on same. Prepare Notice of Appearance. Review docket on consolidated case caption and other case details.
03/29/17	A. Rose	3.00	Telephone conference with H. Kaplan on joint representation, discovery dispute appearance and judges. Telephone conference with D. Tulchin and T. Greene on same. Review docket. Review letter submission on discovery dispute for 4/6 appearance. Review Notice of Appeal. Review and revise pro hac vice papers. Edit and file Notice of Appearance. E-mails to prior counsel (Cooper and Baker) on appearance and withdrawal. Review Trial Order. E-mails on consolidated vs. single caption on papers.
03/30/17	A. Rose	1.20	E-mails to D. Tulchin and T. White on pro hac vice papers. Coordinate filing of papers. E-mails to court clerk and D. Tulchin on appearance in both actions. Review decision and docket on whether second case remains pending post-decision.

Nixon Peabody LLP
 Invoice # 9866445 Page 2

03/31/17	A. Rose	1.80	Review e-mails on pro hac vice motions and referral to magistrate. Review last several such applications for NDNY usual course. E-mail D. Tulchin on same. Initial review of letters from plaintiff's counsel on answer to amended complaint and damages discovery. Telephone conference with deputy clerk on appearance for counter-claim plaintiff. E-mail D. Tulchin on same. E-mail H. Kaplan on his pro hac vice application. Review draft letter to request change in trial date.
03/31/17	A. Rose	0.30	Conference with K. Dayer on tracking filings and case background.

TOTAL HOURS: 7.80

TOTAL FEES: \$4,563.00

TIMEKEEPER SUMMARY

<u>Timekeeper</u>	<u>Rate</u>	<u>Hours</u>	<u>Fees</u>
<u>Partners</u>			
A. Rose	585.00	7.80	4,563.00
Total All Timekeepers:		<u>7.80</u>	<u>\$4,563.00</u>

TOTAL FOR MATTER -- UNIVERSAL INSTRUMENTS V MICRO SYSTEM ENGINEERING, INC.:	<u>\$4,563.00</u>
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TOTAL FOR STATEMENT:	<u>\$4,563.00</u>
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Micro System Engineering, Inc.
6024 Jean Road
Lake Oswego, OR 97035

April 30, 2017
Invoice No. 9866445
Account: 078707
Terms: Due Upon Receipt

FOR PROFESSIONAL SERVICES RENDERED through March 31, 2017, including:

SUMMARY OF FEES, CHARGES AND DISBURSEMENTS

Details are shown on the pages following this summary.

Matter	Time	Fees	Chg. & Disb.	Total
Universal Instruments v Micro System Engineering, Inc.	7.80	4,563.00	0.00	4,563.00
Total of all matters on this invoice:	<u>7.80</u>	<u>\$ 4,563.00</u>	<u>\$ 0.00</u>	<u>\$ 4,563.00</u>



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Micro System Engineering, Inc.
6024 Jean Road
Lake Oswego, OR 97035

May 18, 2017
Invoice No. 9878520
Account: 078707
Terms: Due Upon Receipt

FOR PROFESSIONAL SERVICES RENDERED through April 30, 2017, including:

MATTER NO.: 000002

**UNIVERSAL INSTRUMENTS V MICRO SYSTEM
ENGINEERING, INC.**

For Professional Fees:

<u>Date</u>	<u>Timekeeper</u>	<u>Hours</u>	<u>Description of Services</u>
04/01/17	A. Rose	1.20	Further consideration of timing of request for altered trial date and contacting magistrate on pro hac motions before 4/6 conference. Begin to review to assess plaintiff's dispute on damage disclosure.
04/03/17	A. Rose	3.70	Review Kaplan pro hac papers. Prepare pro hac sponsor affidavit. Compile papers and coordinate filing. Check personal appearance issue for conference. Telephone conferences with S&C team (3) on various issues, conference, meet and confer and answer to Third Amended Complaint. Review answer and suggest edits to same and compare to complaint. Telephone conference with and e-mail to plaintiff's counsel to schedule conference call. Telephone conference with clerk on Judge Peebles' trial location. Initial review of plaintiff's opposition to motion for reconsideration.
04/03/17	K. Dayer	0.30	Electronically file Answer to Third Amended Complaint with the court via the CM-ECF system per A. Rose.
04/04/17	A. Rose	4.50	Review motion to deem answer filed timely. Check local rules on same and non-dispositive motions. Assess approach in light of meet and confer obligation. E-mail S&C team on same. Telephone conference with S&C team on approach. Review second set of revised motion papers. Edits to motion papers. Draft letter to Judge Peebles on addressing issue of timeliness of answer at 4/6 conference. Telephone conference with courtroom deputy on pro hac motions and S&C participation in 4/6 conference. E-mail S&C team on same. Review plaintiff's opposition to motion for reconsideration. E-mail H. Kaplan on pro hac vice motion.

<u>Date</u>	<u>Timekeeper</u>	<u>Hours</u>	<u>Description of Services</u>
04/05/17	A. Rose	4.20	E-mail H. Kaplan on conference. E-mails to C. Blank and D. Cooper on meet & confer call. E-mails to S&C team on same. Review e-mails from O. Dukelow on issues, authorities for discussion at meet & confer and conference. Review materials on issues on production of profit, cost, transfer prices and timeliness of appeal. Prepare for meet & confer telephone conference, and participate in same. Review motion to compel and order referenced by plaintiff's counsel on discovery issue. E-mail S&C team on same. Review e-mail and unredacted motion papers sent by O. Dukelow on motion to compel and damages disclosure issue.
04/06/17	A. Rose	3.20	Review D. Cooper's e-mail on background on outstanding document production issue. Prepare for conference with Judge Peebles. Participate in conference. Post-conference telephone conference with S&C team. Notes for telephone conference with plaintiff's counsel. Telephone conference with plaintiff's counsel on document production dispute. Prepare summary e-mail to S&C team on same. E-mail C. Greene on protective order. Review protective order.
04/07/17	A. Rose	1.50	Review UPTSO and docket for parties' submissions on same to see if bifurcation suggested (to address discovery dispute on damage issues). Telephone conference with S&C on my telephone conference with plaintiff's counsel and approach. Review letter from plaintiff's counsel outlining their demands on damages discovery issue. E-mail D. Tulchin on same.
04/08/17	A. Rose	2.30	Review several documents from prior history of cases for background and understanding of issues.
04/11/17	A. Rose	1.60	Review decision denying motion for reconsideration. E-mail S&C on motion to compel. Work on creating files from relevant docket documents over course of case. Diary upcoming dates. Review materials on current discovery dispute on transfer prices.
04/12/17	A. Rose	1.20	Telephone conference with and e-mails to D. Tulchin on motion to compel hearing time, trial date adjustment and judge vs. magistrate selection. Telephone conference with and e-mails to plaintiff's counsel on same. Telephone conferences (2) with Judge Peebles clerk on motion to compel appearance time. Review T. White's letter to plaintiff's counsel on damage discovery dispute.

04/13/17	A. Rose	2.80	Review letter on plaintiff's revised offer on damage discovery dispute. Telephone conference with and e-mails to and from plaintiff's counsel on request for adjusted trial date. Telephone conference with Judge Sharpe's clerk on same. Telephone conferences (2) with team on strategy on request for adjusted trial date. Review Rule 7.1 and trial order for provisions on requests for trial date adjournment. Review draft letter from D. Tulchin on same. Notes on telephone conference with clerk on content of revised letter. Review letter from plaintiffs on objection to change in trial date. Consider logic of plaintiff's offer on admissions regarding damage figures in lieu of motion to compel.
04/14/17	A. Rose	1.50	Initial review of plaintiff's motion to compel papers. Review proposed motion to modify protective order and e-mails to team on same. Review draft letter to court on requested change in trial date. E-mails to D. Tulchin and H. Kaplan on same.
04/17/17	A. Rose	2.80	Review and comment on revised letter to judge on trial date. E-mails to S&C on same. Review e-mails and attachments from Cooper/Dukelow on plaintiff's historical practices and financial and damage issues. E-mails to A. Thatte on ShareFile information. Review e-mails on motion for modification of protective order. Review plaintiff's motion to compel disclosure of pricing and profit documentation. Consider timing on motions and letter request to judge.
04/18/17	A. Rose	3.20	Review plaintiff's response letter on trial date. Review, revise and telephone conference with A. Thatte on letter to plaintiff on protective order amendment. Draft affidavit to accompany motion. E-mails to S&C on various issues. E-mails to plaintiff's counsel on meet and confer on protective order. Telephone conference with H. Kaplan on MTA role on motion. Check local rules and terms of protective order for process in challenging designations.
04/19/17	A. Rose	2.20	E-mails on meet and confer. Review plaintiff letter on other issues for call. Check background on same. Review and edit motion to compel papers. E-mail (2) S&C on same. Edit papers per D. Tulchin's comments. Prepare for meet and confer telephone conference.
04/20/17	A. Rose	2.20	Prepare for and participate in telephone conference among counsel on down designation, access by Biotronik in-house lawyers, and updating financial disclosures and access to THS3 source code. Follow up telephone conference with D. Tulchin on same, trial date, and Motion to Compel response. Review Motion to Compel proposed introduction. Consider and respond to question on briefing order of arguments. Check Court order.

Nixon Peabody LLP
Invoice # 9878520 Page 4

04/21/17	A. Rose	4.80	Search docket for results of mediation, settlement and timing of same. Review plaintiff's letter on 4/20 conference call. Review S&C responsive letter and e-mail S&C on same. Review expert report with financial supporting documents for context on current request for updated financials. Review and edit brief in opposition to motion to compel. E-mail S&C on same. Review letter, declaration, proposed order on motion opposition, and filing under seal. Review Protective Order and local rule on same. Telephone conference with clerk on same. E-mails to J. Lieberman on mechanics of filing under seal, and signatures.
04/22/17	A. Rose	0.50	Follow-up on documents for filing in opposition to motion to compel.
04/24/17	A. Rose	2.30	Telephone conferences and e-mails with S&C on revised and final papers in opposition to motion to compel. Telephone conference with clerk on filing process for seal. Coordinate filing and service. Review opposition papers. E-mails to Judge Peebles' clerk on filing of unredacted copies. E-mails to plaintiff's counsel on service of opposition papers.
04/25/17	A. Rose	1.20	E-mails to plaintiff's counsel on their system's failure to receive motion opposition. Break up and re-send papers. Review final opposition papers.
04/26/17	A. Rose	0.50	Review of ecf filing on trial date. E-mails to plaintiff's counsel on meet & confer. Consider same. E-mails to D. Tulchin and T. White on same. Check magistrate referral form and process.
04/27/17	A. Rose	0.50	E-mails on pretrial meet & confer. Check pretrial submission dates.
TOTAL HOURS:		48.20	

TOTAL FEES: \$27,849.50

TIMEKEEPER SUMMARY

<u>Timekeeper</u>	<u>Rate</u>	<u>Hours</u>	<u>Fees</u>
<u>Partners</u>			
A. Rose	580.00	47.90	27,782.00
<u>Paralegals</u>			
K. Dayer	225.00	0.30	67.50
Total All Timekeepers:		48.20	\$27,849.50

Nixon Peabody LLP
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For Charges and Disbursements:

<u>Description</u>	<u>Amount</u>
Filing/Recording Fees	300.00
Secretarial Overtime	43.75

TOTAL CHARGES AND DISBURSEMENTS: \$ 343.75

**TOTAL FOR MATTER -- UNIVERSAL INSTRUMENTS V MICRO
 SYSTEM ENGINEERING, INC.:** **\$28,193.25**

Total Fees.....	\$	27,849.50
Total Charges and Disbursements	\$	<u>343.75</u>
Total Time and Costs	\$	<u>28,193.25</u>
TOTAL FOR STATEMENT:		<u>\$28,193.25</u>



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Executive Vice President, General Counsel
Biotronik, Inc.
Micro System Engineering, Inc.
6024 Jean Road
Lake Oswego, OR 97035

June 12, 2017
Invoice No. 9885556
Account: 078707
Terms: Due Upon Receipt

FOR PROFESSIONAL SERVICES RENDERED through May 31, 2017, including:

MATTER NO.: 000002

**UNIVERSAL INSTRUMENTS V MICRO SYSTEM
ENGINEERING, INC.**

For Professional Fees:

<u>Date</u>	<u>Timekeeper</u>	<u>Hours</u>	<u>Description of Services</u>
05/01/17	A. Rose	2.30	Review plaintiff's reply on motion to compel. Review plaintiff's reply to our letter on down designation and supplemental production. Telephone conference with and e-mail to Judge Peebles clerk on MTA appearance. E-mail to H. Kaplan and D. Tulchin on same and hearing attendance. Prepare for motion appearance.
05/02/17	A. Rose	7.50	Travel to and from NDNY Syracuse for hearing on plaintiff's motion to compel. Conferences with T. White and D. Tulchin on same. Post-hearing conference with Judge Peebles. Conferences with K. Dayer and e-mail on getting transcript.
05/02/17	K. Dayer	1.00	Research regarding submission of request for transcript of May 2 motion hearing per A. Rose. Telephone conference with clerk's office regarding same. Prepare draft Transcript Order form and Request for Transcript. Prepare and revise certificate of service of same.
05/03/17	A. Rose	1.80	Meet and confer teleconference on pretrial submission and down designation. Follow-up on motion transcript and filing request for same. Conference with paralegal on same. Telephone conferences (2) with stenographer on timing for transcript. Telephone conference with T. White on same and motion argument. Review plaintiff's letter on meet and confer topics and D. Tulchin letter on down designation and access by Biotronik counsel. E-mail S&C on undertaking for Biotronik counsel. Review pretrial order on stipulated facts.

Nixon Peabody LLP
Invoice # 9885556 Page 2

<u>Date</u>	<u>Timekeeper</u>	<u>Hours</u>	<u>Description of Services</u>
05/03/17	K. Dayer	0.20	Finalize Request for Transcript of May 2 motion hearing. Electronically file same with the court via the CM-ECF system.
05/04/17	A. Rose	1.40	Telephone conference with A. Thatte on expert videotape and uniform Pretrial Rule on same. Review e-mails on down designation. Review draft stipulated order on access to AEO materials for Biotronik Counsel. E-mail J. Lieberman on same. Review decision denying plaintiff's motion to compel. E-mails to S&C on same.
05/05/17	A. Rose	0.10	Review ecf notices.
05/05/17	A. Rose	0.20	Review e-mail and prepare changes to undertaking.
05/10/17	A. Rose	1.10	E-mails on transcript. Telephone conference with and e-mails to T. White on demand dialogue. Review notes of hearing day for same. Review transcript.
05/11/17	A. Rose	0.30	E-mail on edits to undertaking and down designation. Review court approved undertaking form.
05/12/17	A. Rose	0.80	Telephone conferences (2) with J. Lieberman on line videotape testimony. Check rules. Telephone conferences (2) with NDNY clerk and IT personnel on same.
05/15/17	A. Rose	0.70	Telephone conferences (2) with J. Lieberman. E-mails to J. Lieberman and T. White on filing letter on settlement status. Coordinate filing.
05/16/17	A. Rose	0.20	Telephone conference with S&C on undertaking and submission of same to court. Check rules.
05/17/17	A. Rose	0.60	Sign stipulation on dedesignation. E-mails to A. Thatte on same. Telephone conferences (2) with Judge Peebles' clerk on same. Coordinate filing of same.
05/18/17	A. Rose	0.30	Review order on de-designation. Diary follow-up on demand and trial preparation. Check status.
05/22/17	A. Rose	4.20	Telephone conferences with D. Tulchin, T. White and A. Thatte on settlement positions and plaintiff's appeal to Judge Sharpe and jury instructions. Telephone conferences with Judge Sharpe's clerk on appeal timing. E-mail D. Tulchin and T. White on same. Review various e-mails from plaintiff's counsel on down-designation of documents. Review certain of the documents. Review plaintiff's affidavits, brief and exhibits on appeal of Judge Peeble's decision on Motion to Compel. Investigate Judge Sharpe's copyright cases. Review Sharpe motion schedule, calculate opposition time and explore availability of reply.
05/23/17	A. Rose	1.70	Review further correspondence on re-designation and settlement. E-mails to D. Tulchin on exchange of settlement information with Judge Peebles. Telephone conferences (2) with plaintiff's counsel on accelerating appeal to Judge Sharpe. E-mail D. Tulchin on same. Review ecf orders on sealing materials on appeal. Review materials for settlement telephone conference with magistrate. Check MTA settlement position.

Nixon Peabody LLP
 Invoice # 9885556 Page 3

<u>Date</u>	<u>Timekeeper</u>	<u>Hours</u>	<u>Description of Services</u>
05/24/17	A. Rose	2.10	Telephone conferences with and e-mails to Judge Peebles' clerk on submissions prior to settlement call. Prepare for and participate in call. Telephone conference with and e-mails to T. White on our offer letter submission. Telephone conference with and e-mail to plaintiff's counsel on CAMP conference. Check docket on same. Review for plaintiff's expert's damage calculations. Review diary on Judge Sharpe's order on rescheduled appeal hearing.
05/26/17	A. Rose	0.60	E-mails to J. Lieberman on request to present witness via videotape. Initial check of Rule and G.O. 25 on same.
05/30/17	A. Rose	3.50	Review letter motion on live video testimony at trial and caselaw in support of same. E-mail to S&C on reactions to same. E-mails in follow-up. Review and assess Universal's response on request for video testimony and seeking down designation of TH3 source code. E-mails on jury exercise and review logistics and background on same. Review UPTSO and Trial Order on video trial testimony. Diary upcoming dates. E-mails to J. Lieberman on motion on video testimony and redactions.
05/31/17	A. Rose	2.40	Investigate need to redact Rickard materials in letter motion. Review local rule. Telephone conference with and e-mails to J. Lieberman on motion to do video trial testimony. Review, edit and revise motion papers. Prepare same for filing, and serving redacted and unredacted versions. Work with staff to address ecf filing problems.

TOTAL HOURS: 33.00

TOTAL FEES: \$18,873.00

TIMEKEEPER SUMMARY

<u>Timekeeper</u>	<u>Rate</u>	<u>Hours</u>	<u>Fees</u>
<u>Partners</u>			
A. Rose	585.00	31.80	18,603.00
<u>Paralegals</u>			
K. Dayer	225.00	1.20	270.00
Total All Timekeepers:		33.00	\$18,873.00

For Charges and Disbursements:

<u>Description</u>	<u>Amount</u>
Depositions/Court Reporters	169.75
Filing/Recording Fees	100.00
Travel	178.80

TOTAL CHARGES AND DISBURSEMENTS: \$ 448.55

Nixon Peabody LLP
Invoice # 9885556 Page 4

TOTAL FOR MATTER -- UNIVERSAL INSTRUMENTS V MICRO
SYSTEM ENGINEERING, INC.: \$19,321.55

Total Fees.....	\$	18,873.00
Total Charges and Disbursements	\$	448.55
Total Time and Costs	\$	19,321.55
TOTAL FOR STATEMENT:		<u><u>\$19,321.55</u></u>

Outstanding Amount Information For Matters on this Bill

Unpaid balance of other outstanding bills	\$	28,193.25
Total Due		<u><u>\$47,514.80</u></u>

Note:
This accounts receivable Summary includes only matters that appear on this bill. It may not reflect all matters with current accounts receivable information.



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E-mail: Joan.Schmidt@biotronik.com
Executive Vice President, General Counsel
Micro Systems Engineering, Inc.
6024 Jean Road
Lake Oswego, OR 97035

July 12, 2017
Invoice No. 9893866
Account: 078707
Terms: Due Upon Receipt

FOR PROFESSIONAL SERVICES RENDERED through June 30, 2017, including:

MATTER NO.: 000002

**UNIVERSAL INSTRUMENTS V MICRO SYSTEM
ENGINEERING, INC.**

For Professional Fees:

<u>Date</u>	<u>Timekeeper</u>	<u>Hours</u>	<u>Description of Services</u>
06/01/17	A. Rose	0.70	Telephone conference with S&C and H. Kaplan on mock trial exercise and motions in limine. Notes on same.
06/02/17	A. Rose	1.20	Review various correspondence on withdrawal of appeal, down designation, response to video motion and on opposition to appeal of motion to compel order. Initial review of opposition and e-mails to counsel on same. Check jury exercise location.
06/05/17	A. Rose	4.50	Review, edit and provide comments on response brief on plaintiff's objections to magistrate rulings. E-mail to S&C team and H. Kaplan on same. Review plaintiff's 376 proposed statements of fact allegedly not in dispute and draft counter-statement. Consider Rule 7.1(a)(3) impact on same. Internal conferences on whether Judge Sharpe would apply rule. E-mails (2) to S&C team on same and suggestions. Telephone conference with A. Thatte on same. Review order and e-mail from Judge Sharpe's clerk on video trial testimony. Consider approach to technology review and testing for same. E-mails to S&C and H. Kaplan on same.
06/06/17	A. Rose	1.70	E-mails to D. Tulchin and T. White. Telephone conference with T. White on arrangements for video testimony. Telephone conference with J. Law (clerk) on same. Review e-mails from Universal counsel, our responses, edit same, on pre-trial stipulation relevant facts not in dispute. Work on local trial logistics. E-mails to A. Brebner and A. Thatte on opposition to Universal's

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Invoice # 9893866 Page 2

<u>Date</u>	<u>Timekeeper</u>	<u>Hours</u>	<u>Description of Services</u>
06/07/17	A. Rose	3.70	objections and appeal to Judge Sharpe. Review distances and courthouses in Denver for Rickard video testimony. Review revised draft of response brief to Universal's appeal of Magistrate's decision. E-mails with S&C on same. Two telephone conferences with H. Smith (NDNY, IT) on video arrangements. Two e-mails with T. White on same. E-mails, telephone conference with D. Tulchin, A. Thatte on revisions to brief and filings/service issues. Review all final documents, redacted and unredacted. Compose e-mail to Judge Sharpe's clerk on request to seal. Check case citations in brief for possible error. Coordinate, plan for trial team presence during trial.
06/11/17	A. Rose	0.30	E-mails to D. Tulchin on 7/17 conference. Check details on conference.
06/12/17	A. Rose	1.60	Review e-mails on competing stipulated facts and review lists proposed. Review down designation list on code for THS lines. E-mails to T. White on video testimony arrangements and NDNY process. Telephone conference with and e-mail to NDNY IT personnel on same. Assess need for vendor and questions to ask IT staff and T. White.
06/13/17	A. Rose	2.30	E-mails to T. White for clarification on video testimony (Rickert) details. Telephone conferences (3) with and e-mail to H. Smith (NDNY IT) on video testimony arrangements. Research vendors in Denver and site information in Denver. E-mail T. White to report on findings. E-mails to T. White and A. Meola on stipulated facts.
06/14/17	A. Rose	2.30	Review plaintiff's letter seeking conference on disagreement over pre-trial stipulated facts. Assess some arguments on previously admitted facts in summary judgment papers and Judge Sharpe's decision. Assess Judge's likely response and need and timing of response. E-mail T. White and telephone conference with D. Tulchin on same.
06/15/17	A. Rose	5.20	Review Judge Sharpe's decision on conference request on stipulated facts. E-mail S&C on same. Review and consider neutral statement, jury charge and verdict form for jury exercise. Check causes of action. Review third amended complaint for actual damages claimed. Review summary judgment decision on findings on breach of contract and elements of copyright claim. Notes on same for providing comments on jury exercise materials. Begin drafting e-mail with reactions to questions on same. Make suggested edits and comments on jury exercise materials. Assess need to address issues around modification of source code in jury instruction.

06/15/17	A. Rose	0.30	E-mails to J. Lieberman on arrangements for Rickert video testimony. E-mails to T. White on same.
06/16/17	A. Rose	4.80	Work on Rickerts video arrangements. Telephone conference with and e-mail to NDNY IT staff on same. Review e-mails on exchange of witness lists and on motions in limine. Check and note trial order provisions on same. Continue to review, assess, outline comments on jury exercise documents (neutral case description, jury charge and verdict form) and refer to case documents, pleadings, expert materials, decisions to check facts and claims. Notes on Rickert changed availability and follow-up with NDNY on test runs for video testimony. Finish e-mail to S&C team with comments on jury exercise documents. Review D. Tulchin's comments in response to same.
06/19/17	A. Rose	1.50	Follow-up e-mails to H. Smith and S&C team on Rickert video testimony. E-mails on and diary witness list exchange. E-mail T. White on video testimony meet and confer. Check witness identification for MSEI and Universal, and their topics for evidence.
06/21/17	A. Rose	0.30	E-mails to A. Mayron on courtroom preview. Check reference to room to be used in pretrial materials.
06/22/17	A. Rose	0.30	Telephone conferences with NDNY on preview of courtroom. E-mail S&C on same and preparations for jury exercise.
06/23/17	A. Rose	0.50	Telephone conference with T. White on mock trial exercise. Consider and plan for logistics for same.
06/24/17	A. Rose	1.50	Review revised mock jury exercise materials, neutral statement, jury instructions and verdict form. Make notes on comments on same. E-mails to A. Thatte on same. E-mails on logistics for exercise with T. White. Initial review of materials from jury consultant.
06/26/17	A. Rose	2.80	E-mails to J. Law, J. Haase, and S&C on courtroom viewing. Conference with J. Law on same and visit courtroom at J. Law's request. Review comments on mock jury questionnaire. Review questionnaire and mock jury agenda. Review revised mock jury materials. E-mails to S&C and H. Kaplan on logistics. E-mail on witness list status. E-mails to Salmons staff on jury exercise needs. Investigate Immersion Legal for coordinating with same and e-mails on same.
06/27/17	A. Rose	9.80	Travel to and from, and attend mock trial exercise. Conferences with S&C team on same, Judge Sharpe's affirmance of Judge Peebles' decision and other trial preparation issues. Review e-mails from S&C and Universal counsel on pretrial submissions and meet & confer on same.
06/28/17	A. Rose	6.80	Consider S&C questions on trial and Exhibit Lists. E-mail responses on same. Review trial order and compare

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 Invoice # 9893866 Page 4

			submission list to those in UPTSO and more recently issued trial orders. Line up resources for filing, service on 7/3 and partial holiday. Make list of items to be filed and manner of filing for each. Outline questions for S&C on same. Conference call with J. Lieberman and A. Thatte on exhibit lists and other questions on supplemental jury questionnaires and IT testing. Review jury selection materials and gather information from experience bank on same. Draft e-mail comments on six items for meet & confer to S&C. Participate in meet & confer on pretrial issues. Exchange e-mails post meet & confer on "joint" submission obligation and judge's order on stipulated facts. E-mail T. White on hearsay question. Add to e-mail to S&C on IT arrangements and issues to address at 7/17 pretrial conference. Review Universal's revised stipulated facts not in dispute, issues of law and facts in dispute. Draft letter to accompany sealing request for trial brief and motions in limine. Respond to A. Brebner's e-mail on case caption. Check for local rule on same.
06/29/17	A. Rose	5.20	E-mails and telephone conference with J. Lieberman on pretrial submissions and questions. Review parties' exchanged witness and exhibit lists. E-mails to T. White on court-ordered voir dire. Gather information for preparation of same. Draft court-ordered voir dire pretrial submissions for MSEI and MTA. Brief review of mock trial videos. E-mails on recap of same. E-mails to H. Kaplan on court-ordered voir dire. Initial review of trial briefs.
06/30/17	A. Rose	5.50	Work on, edit, e-mails on trial briefs and court-ordered voir dire. E-mail counsel on local rules on Daubert motions. Telephone conference with and e-mails to J. Lieberman on documents for court on pre-trial submissions. E-mails to S&C on logistics for trial and office accommodations. Telephone conference with T. White on court-ordered voir dire and joint pre-trial stipulation. Review e-mail exchange on witnesses, presence at trial and deposition transcripts. Review updated Hampton damages report. Telephone conference with H. Kaplan and M. Christiansen on MTA pre-trial submissions. Review and assess trial subpoenas sent by plaintiffs. Review e-mails on uncontested facts. Initial re-reading of summary judgment decision on T. White's question on interpretation of ruling that Universal owns source code in final system (THSIA).

TOTAL HOURS: 62.80

TOTAL FEES: \$36,738.00

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TIMEKEEPER SUMMARY

<u>Timekeeper</u>	<u>Rate</u>	<u>Hours</u>	<u>Fees</u>
<u>Partners</u>			
A. Rose	585.00	62.80	36,738.00
Total All Timekeepers:		<u>62.80</u>	<u>\$36,738.00</u>

For Charges and Disbursements:

<u>Description</u>	<u>Amount</u>
Travel	23.54

TOTAL CHARGES AND DISBURSEMENTS: \$ 23.54

**TOTAL FOR MATTER -- UNIVERSAL INSTRUMENTS V MICRO
 SYSTEM ENGINEERING, INC.: \$36,761.54**

Total Fees.....	\$	36,738.00
Total Charges and Disbursements	\$	23.54
Total Time and Costs	\$	<u>36,761.54</u>
TOTAL FOR STATEMENT:		<u>\$36,761.54</u>

Outstanding Amount Information For Matters on this Bill

Unpaid balance of other outstanding bills	\$	28,193.25
Total Due		<u>\$64,954.79</u>

Note:

This accounts receivable Summary includes only matters that appear on this bill. It may not reflect all matters with current accounts receivable information.



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August 17, 2017
Invoice No. 9906887
Account: 078707
Terms: Due Upon Receipt

FOR PROFESSIONAL SERVICES RENDERED through July 31, 2017, including:

MATTER NO.: 000002

**UNIVERSAL INSTRUMENTS V MICRO SYSTEM
ENGINEERING, INC.**

For Professional Fees:

<u>Date</u>	<u>Timekeeper</u>	<u>Hours</u>	<u>Description of Services</u>
07/01/17	A. Rose	1.50	Review MTA draft Daubert motion on plaintiff's damages expert. E-mail M. Christiansen on same. E-mails to H. Kaplan on trial logistics.
07/02/17	A. Rose	8.50	Prepare edits and comments on MTA Daubert motion on S. Hampton. Make list of items for 7/3 filings. Review MSEI proposed jury instructions and verdict form. Review, comment on and edit 8 motions in limine, proposed voir dire questions and revised witness list. Telephone conference with and e-mails to J. Lieberman, A. Thatte and T. White on issues and questions on pre-trial filings. E-mail H. Bjerk on trial logistics. E-mail MTA counsel on pre-trial filings. Review edits to MTA Daubert motion. Consider filing sequence, timing and proposed e-mail exchange on same. Review and comment on draft verdict form and e-mail exchange on same.
07/03/17	A. Rose	8.70	Review and edit MTA second motion in limine and trial brief. Draft and revise letter motion requesting seal and proposed order on same. Many e-mails and telephone conferences with S&C team and internal administrative and IT staff on filing, service of eight motions in limine, Court Ordered Voir Dire, proposed voir dire and exhibit list. Compose e-mail for submission of unredacted versions of documents to be sealed. Review documents redacted to characterize reasons for seal. Review revised versions of trial brief, witness lists, supporting declaration and pre-trial stipulation. Telephone conferences with

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<u>Date</u>	<u>Timekeeper</u>	<u>Hours</u>	<u>Description of Services</u>
			MTA counsel (2) on sealing procedure. E-mail T. White on page limit and check rules on same. Prepare hard copy reference documents (expert reports) for delivery to judge. E-mail clerk on same. Review certain of Universal's pre-trial submissions. Coordinate filings by court ordered deadline.
07/05/17	A. Rose	5.50	Initial review of plaintiff's trial brief, proposed voir dire, jury charge and motions in limine. E-mails to S&C and telephone conference with J. Lieberman on page limit, substituted signature page and compilation for judge. Letter to Judge Sharpe enclosing MIL reference documents. Telephone conference with T. White on replies to plaintiff's MILs and working with objections to proposed exhibits. E-mails on plaintiffs served deposition transcripts. Review discs on same. E-mails to NDNY IT staff, S&C team (3) on arrangements for Rickert video testimony and dry run on same. Consider motion to strike 46-page brief. Research on page limitations for same. E-mails to D. Tulchin on trial logistics.
07/06/17	A. Rose	3.50	Mock trial exercise recap. Review slides for same. E-mails on trial subpoena. E-mails on and consider post-discovery deposition of Bennett. E-mails to S&C and internal staff on trial logistics. E-mails on MTA pro hac vice motion. Review pro hac vice papers. Continue reviewing plaintiff's pretrial submissions. Refer to evidence on same.
07/07/17	A. Rose	3.80	Telephone conferences with D. Tulchin, Universal counsel on deposition filings. Consider approach on same. Review and respond to e-mails on pro hac vice motion (MTA), review motion and file same. E-mails on narrowing exhibit lists, and meet & confer on same. E-mails to S&C and Universal's counsel on deposition filings. E-mails on showing AEO materials to witnesses. Review discs on deposition transcripts and download transcripts, exhibits for witnesses whose testimony to be taken at trial. E-mails on withdrawing of expert reports from exhibit list. Telephone conference with A. Thatte on 7/10 filings. Review remaining Universal motions in limine.
07/09/17	A. Rose	7.50	Review certain Evans transcripts to get a sense of trial testimony if need to conduct same. Notes on same. Review, edit and comment on five motions in limine from plaintiffs. E-mail A. Brebner on Rickert testimony. Check for Evans transcripts and exhibits from among 107 discs provided by plaintiffs. Check for Subrahmanyam transcript and exhibits. Partial review of transcripts.
07/10/17	A. Rose	9.50	Telephone conference with J. Law, telephone conference with H. Smith (NDNY), and e-mails (2) to same on video run through and expected conduct of pretrial conference. Telephone conference with S&C team on same.

<u>Date</u>	<u>Timekeeper</u>	<u>Hours</u>	<u>Description of Services</u>
			Telephone conference with S&C Logistics team on arrangements for trial weeks. Follow-up on same. Review, edit, comment on, and e-mails on briefs and in opposition to plaintiff's motions in limine numbers 4 and 5.
			Telephone conference with A. Thatte on filing details, correction of unredacted brief. E-mails to A. Thatte on drafts, filing and service details. Telephone conference with and e-mails to J. Lieberman on motion to seal. E-mail to J. Lieberman on letter in support of motion. Edit letter and proposed order for sealing motion. E-mails to A. Brebner on and provide forms for pro hac vice motion. Prepare unredacted papers in opposition to plaintiff's motions in limine and e-mails to clerk and counsel for filing same. Notes from telephone conference with J. Law on jury selection process. Initial review of portions of plaintiff's reply to some of our motions in limine. Identify transcripts of witnesses possibly to be presented at trial, review subject matter and exhibits on same. Consider approach on witness allocation. Notes on Subrahmanyam testimony.
07/11/17	A. Rose	5.80	E-mail exchanges on exhibits. Prepare for and participate in meet & confer on deposition transcripts to be offered at trial, exhibits, video test run, witnesses produced at trial, etc. Telephone conference with T. White on trial witnesses. Telephone conferences with H. Kaplan on trial witnesses and subpoenas for same. E-mail A. Meola on same. Review plaintiff's opposition briefs on motions in limine. Compare witness lists for identity of witnesses and topics of testimony. Work on reproducing and distributing trial exhibits as produced by plaintiffs. Same for DVDs and transcripts of depositions to be used at trial.
07/12/17	A. Rose	1.10	E-mails to H. Smith, T. White and A. Brebner on testing video system on 7/17. Telephone conference with and e-mail to M. Christiansen on logistics for 7/17 conference. Check certain logistics for team arrival on 7/29.
07/13/17	A. Rose	1.80	Telephone conference with D. Tulchin on same. E-mails on exchanging exhibit objections. E-mails to D. Tulchin and conferences with staff on trial logistics. Review e-mail on representation of certain witnesses and review subpoena power. E-mails on exhibit lists. E-mail A. Meola on video demonstration. Telephone conference with J. Law (Judge Sharpe's clerk) on courtroom configuration for trial.
07/14/17	A. Rose	2.50	Review parties' exhibit lists, objections to same and count exhibits with no objections. Coordinate and review A. Brebner's pro hac motion filing. Work on trial logistics. Prepare for conference.

07/17/17	A. Rose	5.30	Meetings with S&C and H. Kaplan and M. Christiansen before and after pre-trial conference. Compile materials for team on same. Attend pre-trial conference. Meeting with counsel, court IT staff and clerk on video arrangements for Rickert testimony. Telephone conference with court reporter on transcript request. Prepare transcript request forms and file same. E-mails to counsel on witness availability and sequencing.
07/18/17	A. Rose	1.50	Review docket entries, pro hac vice grant, summary of pre-trial proceedings and transcript requests. E-mails on trial witnesses. Conference call with all counsel on same. Review supplemental exhibits and notes on order of witnesses.
07/19/17	A. Rose	2.20	E-mails on exhibit objections, deposition designations, new witness list and new exhibits. Work on obtaining hearing transcript. E-mails to stenographer on same. E-mails on order of proof. E-mails on calling Blacker (expert) on plaintiff's case. E-mails to A. Brebner on questions on courtroom logistics and consider, and investigate same. Review designations. Consider AEO materials at trial.
07/20/17	A. Rose	2.40	E-mails on document camera in courtroom. Investigate same. E-mails on summary of meet & confer. Review exchanged transcript objections and designations. Diary new agreed upon dates. Respond to questions on printing vendor. Review new pro hac vice motion. Telephone conference with M. Christiansen on MTA submissions. Conference with K. Dayer on trial logistics and work on same. Telephone conference with J. Lieberman on same.
07/20/17	K. Dayer	0.20	Meet with A. Rose regarding trial preparation. Communicate with attorneys at Sullivan and Cromwell regarding copy services vendor.
07/21/17	A. Rose	1.80	Review supplemental exhibit lists, Universal's objections to deposition designations. Telephone conference with A. Brebner and trial technology support, T. Meola. Follow-up e-mails on same. Telephone conference with clerk on access to courtroom on 7/29 to set-up. Telephone conference with and e-mail to V. Baranowski on 7/29 trial set-up. Convey NDNY IT support contact information. Review e-mails on witness order. Work on office logistics for S&C team.
07/24/17	A. Rose	2.20	Review MTA letter on new exhibits. Review Universal updated exhibit list. Review Universal's objections to deposition counter-designations. Review flash drive with Universal exhibits and letter on same. E-mails to S&C on same and trial preparation logistics. E-mails to H. Bjerk on office access. Telephone conference with and e-mails to M. Christiansen and S&C on transport of trial materials. E-mails to A. Thatte on electronic devices in courtroom.

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			Consider and investigate same.
07/25/17	A. Rose	1.40	Review Universal's highlighted transcript designations. Review e-mails on witness sequence, objections to exhibits and trial demonstratives. E-mails to S&C staff on logistics. E-mails to M. Christiansen and J. Law on electronics during trial.
07/25/17	K. Dayer	0.20	Telephone conference with C. Riggs of Sullivan and Cromwell regarding preparation for trial.
07/26/17	A. Rose	1.70	Work on trial support logistics and respond to questions on same from team. E-mail court clerk on same. Review various e-mail and trial documents exchanged among counsel.
07/27/17	A. Rose	2.30	Telephone conference with H. Kaplan on late-produced e-mail exhibit, opening and K. Morris' direct examination issue. E-mails to H. Kaplan, D. Tulchin and A. Meola on same. Telephone conference with A. Meola on same. Review e-mails on exhibit objections, witness sequence, demonstratives and objections. Review status of courtroom technical check and remaining exhibit objections. E-mail to A. Thatte on trial transcripts and convey local rules on same. Work on trial support and logistics.
07/28/17	A. Rose	3.50	E-mails to counsel on witnesses, objections, exhibits, and demonstratives. Conferences with S&C staff on trial preparation and logistics. Work on trial support logistics in office. Conferences with C. Riggs, A. Williams and A. Storey on same. E-mails to D. Tulchin on same.
07/28/17	K. Dayer	0.20	Meet with A. Rose and C. Riggs regarding trial support.
07/29/17	A. Rose	5.50	Conferences with counsel on trial preparation. Review correspondence on exhibits, demonstratives and Rickert testimony. Initial review of plaintiff's opening slides, Trial logistics and support activities.
07/30/17	A. Rose	7.20	Participate in trial preparation meetings and review of opening statements. Meet with jury consultants. E-mails to counsel on witnesses. Review and comment on opening slides for each party. Review, edit and comment on briefs on profits and privilege waiver. Prepare transcript request forms. Conferences with trial tech team on real time transcripts. Conferences with counsel on objections, slides and exhibits. Trial support logistics. Conference with S&C and trial coordination. E-mails to H. Kaplan on briefing.
07/31/17	A. Rose	8.50	Pre-trial conference with counsel. Conferences during trial on witnesses and logistics. Attendance at trial. Review Universal's revised opening slides. Telephone conferences with and e-mails to stenographer on transcripts. E-mails to S&C on same.

TOTAL HOURS: 105.80

TOTAL FEES: \$61,677.00

Nixon Peabody LLP
 Invoice # 9906887 Page 6

TIMEKEEPER SUMMARY

<u>Timekeeper</u>	<u>Rate</u>	<u>Hours</u>	<u>Fees</u>
<u>Partners</u>			
A. Rose	585.00	105.20	61,542.00
<u>Paralegals</u>			
K. Dayer	225.00	0.60	135.00
Total All Timekeepers:		<u>105.80</u>	<u>\$61,677.00</u>

For Charges and Disbursements:

<u>Description</u>	<u>Amount</u>
Express Delivery Service	21.70
Other Professional Services	315.25
Travel	22.85

TOTAL CHARGES AND DISBURSEMENTS: \$ 359.80

**TOTAL FOR MATTER -- UNIVERSAL INSTRUMENTS V MICRO
 SYSTEM ENGINEERING, INC.:** **\$62,036.80**

Total Fees.....	\$	61,677.00
Total Charges and Disbursements	\$	<u>359.80</u>
Total Time and Costs	\$	<u><u>62,036.80</u></u>
TOTAL FOR STATEMENT:		<u><u>\$62,036.80</u></u>

Outstanding Amount Information For Matters on this Bill

Unpaid balance of other outstanding bills	\$	<u>28,193.25</u>
Total Due		<u><u>\$90,230.05</u></u>

Note:

This accounts receivable Summary includes only matters that appear on this bill. It may not reflect all matters with current accounts receivable information.



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September 18, 2017
Invoice No. 9915190
Account: 078707
Terms: Due Upon Receipt

FOR PROFESSIONAL SERVICES RENDERED through September 7, 2017, including:

MATTER NO.: 000002

**UNIVERSAL INSTRUMENTS V MICRO SYSTEM
ENGINEERING, INC.**

For Professional Fees:

<u>Date</u>	<u>Timekeeper</u>	<u>Hours</u>	<u>Description of Services</u>
08/01/17	A. Rose	8.80	Dealings with Court staff and reporter on problems with transcript. Conferences with counsel on testimony given and points to make on same. Conferences on support logistics. Attend trial.
08/02/17	A. Rose	9.20	Conferences with court reporters on transcripts. E-mail on witness sequence, exhibit objection, designations. Conferences with court staff NDNY and Colorado on Rickert video testimony. Follow-up e-mail on same. Attend trial session. Conferences with witnesses, counsel on same. Trial support. Conferences with staff, S&C team.
08/03/17	A. Rose	10.80	Trial preparation discussions, support, logistics before and during trial. Attend trial. Coordinate B. Black's appearance. E-mail Colorado court on video issues. Post-trial conferences in light of judge's indications on issues on pre-emption, damages and Rule 50 motion. Return to office after hours for trial team support issues. Conferences with court reporter on transcripts. Convey transcript to team. Conference on settlement demand.
08/04/17	A. Rose	9.80	Pre-trial conferences with co-counsel on Rule 50 motion and events of trial day. Review Rule 50 motion brief. Attend trial sessions. Follow-up conferences with co-counsel. E-mails to court reporters (2) on transcripts. Notes to follow-up on Rickert appearance.
08/05/17	A. Rose	3.50	Telephone conferences with and e-mails to court reporters (2) on expedited transcripts. Conferences with trial team

Nixon Peabody LLP
Invoice # 9915190 Page 2

<u>Date</u>	<u>Timekeeper</u>	<u>Hours</u>	<u>Description of Services</u>
			on same. Conferences with trial team on trial issues. Conferences and e-mails on Rickert video testimony. Notes to follow-up with court IT staff. Initial review of MTA Rule 50 motion. Conferences with H. Kaplan on cross-examination. Review certain transcript segments on relevant testimony.
08/06/17	A. Rose	2.80	Organize materials accumulated and reviewed during week of trial. Telephone conferences with and e-mails on Rickert cancelled testimony. Review MSEI and MTA final Rule 50 motions. Review defendants joint supplemental Rule 50 motion on lack of proof on pre-existing IP.
08/07/17	A. Rose	8.50	Conferences with co-counsel on trial progress, next steps and issues. Review jury charge. Conference with J. Lidner on same. Review Blacker demonstratives. Trial support (office) activities. Attend trial. Post-trial conferences with co-counsel, on outcome, possible appeal and/or reconsideration. Consider collection of materials for possible use of appeal. E-mails to court reporters (2) on trial transcripts. E-mail A. Brebner on Rickert testimony cancellation. E-mail USDC Colorado on same.
08/08/17	A. Rose	3.60	Post-trial logistics support of S&C on office configuration and take down. E-mails to reporters (2) on transcripts from day 6 of trial and judge's Rule 50 ruling. Deliver transcript payment to courthouse. Conferences with reporters and personnel at court on trial. E-mail A. Brebner on transcript. E-mails to trial team on Judge's Rule 50 oral ruling. Review summary decision and order on Rule 50 motions. E-mail T. White on costs.
08/09/17	A. Rose	0.80	Review final report on copyright case from NDNY. File update activities. E-mails to S&C team post-trial.
08/10/17	A. Rose	1.30	E-mails to I. Misrak, A. Thatte and court reporter on transcripts. Review amended judgment. Diary appeal. Conferences with paralegal on same. Review transcript filings on personal identifier redaction notice and local rule. E-mail T. White on same.
08/11/17	A. Rose	1.50	E-mails to A. Brebner on Bill of Costs and attorneys fee issue. Research on local process, constraints and forms for bill of costs.
08/15/17	A. Rose	3.50	Review, edit, and comment on motion for attorneys' fees. E-mails to A. Brebner on same and bill of costs. Review certain authorities on attorneys' fees and search transcripts for J. Sharpe's comments supportive of motion.
08/16/17	A. Rose	2.90	Gather and convey court reporter information and invoicing for Bill of Costs. Further edits and comments on motion for attorneys' fees. E-mails to A. Brebner and D. Tulchin on same. Check local rules. Calculate motion return date. E-mail on affidavit requirement.

Nixon Peabody LLP
Invoice # 9915190 Page 3

<u>Date</u>	<u>Timekeeper</u>	<u>Hours</u>	<u>Description of Services</u>
08/18/17	A. Rose	1.20	Review filed and final motion for attorneys' fees, and compare same to prior drafts and comments. E-mails to opposing counsel on same. Diary opposition.
08/28/17	A. Rose	1.50	Review bill of costs (revised), supporting invoices and check rules, and statute on same. Check need for return date. E-mails to J. Lieberman on filing. Locate missing transcript invoice. Coordinate filing.
08/30/17	A. Rose	0.50	Review Notice of Appeal. Check 2nd Circuit dates. Diary same.
09/05/17	A. Rose	1.50	Review ECF notifications on appeal. Diary same. Review plaintiff's brief in opposition to attorneys' fees motion.
09/06/17	A. Rose	0.30	Review appeal transcript notification and ECF notification on attorneys' fees motion. Diary same.
TOTAL HOURS:		72.00	
			TOTAL FEES: \$42,120.00

TIMEKEEPER SUMMARY

<u>Timekeeper</u>	<u>Rate</u>	<u>Hours</u>	<u>Fees</u>
<u>Partners</u>			
A. Rose	585.00	72.00	42,120.00
Total All Timekeepers:		72.00	\$42,120.00

For Charges and Disbursements:

<u>Description</u>	<u>Amount</u>
Color Prints	2.00
Copier	3.60
Depositions/Court Reporters	722.30
Express Delivery Service	10.91
Meals	4,877.88
Miscellaneous	3,301.34
Other Professional Services	6,644.55
TOTAL CHARGES AND DISBURSEMENTS:	\$ 15,562.58

Total Fees.....	\$	42,120.00
Total Charges and Disbursements	\$	15,562.58
Total Time and Costs	\$	57,682.58
TOTAL FOR STATEMENT:		\$57,682.58

Outstanding Amount Information For Matters on this Bill

Unpaid balance of other outstanding bills	\$	62,036.80
Total Due		\$119,719.38

Note:

This accounts receivable Summary includes only matters that appear on this bill. It may not reflect all matters with current accounts receivable information.